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OCT 31 2000

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OFFICE OF THE SECRETARY

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October 31, 2000

HAND DELIVERY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12th Street, S.W., TW-A325  
Washington, D.C. 20554

REDACTED –  
FOR PUBLIC INSPECTION

Re: Ex Parte Communication, CC Docket No. 00-176

Dear Ms. Salas:

On behalf of Digital Broadband Communications, Inc. (“Digital Broadband”), and pursuant to Section 1.1206(b) of the Commission’s rules and the Commission’s Public Notice, DA 00-2159, released September 22, 2000, Digital Broadband submits herewith documents requested by Mr. Christopher Libertelli of the Common Carrier Bureau on October 23, 2000, during a telephone conversation with B. Kelly Kiser, Digital Broadband’s Vice President of Regulatory and Legal Affairs.

The enclosed materials, which relate to the performance of Verizon’s line qualification databases in Massachusetts, consist of the following: (1) Digital Broadband’s responses to information requests made by the Massachusetts Department of Telecommunications and Energy (“D.T.E.”); (2) Digital Broadband’s Direct Testimony, filed with the D.T.E. on July 10, 2000; (3) Digital Broadband’s Initial Brief, filed with the D.T.E. on August 18, 2000; (4) Digital Broadband’s Reply Brief, filed with the D.T.E. on September 1, 2000; and (5) Digital Broadband’s Motion for Reconsideration. All of these materials were filed in D.T.E. 98-57 (Phase III), in which the D.T.E. investigated Verizon’s proposed rates, terms, and conditions for xDSL services and line sharing in Massachusetts.

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Magalie Roman Salas, Secretary  
October 31, 2000  
Page 2

In accordance with Commission rules and procedures in CC Docket No. 00-176, Digital Broadband is submitting both a copy of the portion of this submission that contains confidential information, and a redacted version of the entire submission. The confidential portion of this submission also has been granted confidential treatment by the D.T.E. in D.T.E. 98-57 (Phase III), and is subject to a Protective Order in D.T.E. 99-271.

Kindly direct any comments regarding this submission to the undersigned.

Sincerely,



E. Ashton Johnston

Counsel for Digital Broadband  
Communications, Inc.

EAJ/jas

cc: Christopher Libertelli, Common Carrier Bureau (by hand delivery)  
Susan Pié, Policy and Programming Planning Division, Common Carrier Bureau  
(by hand delivery)  
Cathy Carpino, Esq., Massachusetts Department of Telecommunications  
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DIGITAL BROADBAND COMMUNICATIONS, INC.

COMMONWEALTH OF MASSACHUSETTS

D.T.E. 98-57 Phase III

**Respondent:** Terry Landers  
**Title:** Vice President,  
Network Services

**REQUEST:** D.T.E. Questions Based Upon Terry Landers' Direct Testimony

**DATED:** August 22, 2000

**ITEM:** D.T.E. 1 See p. 4, lines 14-18 and p. 5, lines 1-9: (a) Provide the supporting documents that show 25% of the pre-qualified loops ordered by Digital Broadband Communications, Inc. ("DBC") are not fit for use. (b) Define what is "not fit for use." (c) Quantify how many times, and out of how many total orders (i) BA-MA responded that facilities are not available; (ii) a FOC was delayed; (iii) BA-MA failed to deliver on the FOC date; and (iv) BA-MA rescheduled FOC dates without prior notice.

**REPLY:** The following responses are based on documentation regarding the total number of unbundled loop orders submitted by Digital Broadband to Verizon between January and July 2000, included as Attachment D.T.E. 1. This documentation contains confidential end-user specific information, and therefore is being submitted under separate cover with a motion for confidential treatment.

(a) Between January and July, 2000, Digital Broadband submitted \*\* pre-qualified xDSL loop orders to Verizon. Digital Broadband was able to complete and provide xDSL service for \*\* (31%) of those orders, is in the process of provisioning xDSL service on \*\* (25%) orders, and Digital Broadband cancelled the remaining \*\* (44%) pre-qualified loop orders without providing xDSL service.

Of the \*\* cancelled loop orders, \*\* (33% of the cancelled pre-qualified orders; \*\*) were "false positives." In other words, Verizon's databases erroneously indicated that these loops were pre-qualified. Relying on that misleading information, Digital Broadband ordered the loops. During the post-order provisioning effort, however, the loop was found to have a Verizon-related facilities problem that should have prevented loop pre-qualification, causing the orders to

“fail,” requiring cancellation of the loop orders, and preventing Digital Broadband from providing xDSL service to the customers served by those loops. These Verizon-related facilities problems include: a lack of available loop facilities; loop length in excess of BA-MA’s internal ADSL standards; the presence of analog T-1, a recognized disturber of xDSL service, in the binder group; and provisioning of the loop over digital loop carrier (“DLC”) local facilities.

Of the \*\* “false positives” described above, \*\* (37%) were pre-qualified using the GUI to access the LQD and \*\* (63%) were manually pre-qualified.

The remaining \*\* of the \*\* unsuccessful orders (67%) were cancelled for a variety of reasons, including central office and loop provisioning delays, which are often related to loop conditioning or a lack of access to DS-3 backhaul facilities at the central office, as well as customer relocation and access issues.

(b) A loop is not fit for use if Digital Broadband cannot complete an xDSL installation within a reasonable period of time because there is a technical problem with the loop facilities, or there is an unwarranted delay that precludes timely service delivery, causing the customer to cancel the order. Problems that preclude successful installation and timely service delivery include: a lack of available facilities, facilities that need conditioning, the loop is provisioned over DLC facilities, cross connects not completed by the firm order commitment (“FOC”) date, voltage on the line, analog T-1 on the binder group, and splice faults.

(c)(i) The \*\* “false positive” pre-qualified orders (as noted in (a) above) failed because facilities were not available in \*\* cases (37%). Other reasons why “false positive” pre-qualified orders failed include: Verizon stated that the loop was too long for xDSL (\*\* cases - 39%); DLC facilities precluded xDSL service (\*\* cases - 8%); and analog T-1 was already provisioned on the binder group serving the loop (\*\* cases - 1.5%).

(c)(ii-iv) Digital Broadband’s records do not contain this information.

**Attachment D.T.E. 1**

**REDACTED**

DIGITAL BROADBAND COMMUNICATIONS, INC.

COMMONWEALTH OF MASSACHUSETTS

D.T.E. 98-57 Phase III

**Respondent:** Terry Landers  
**Title:** Vice President,  
Network Services

**REQUEST:** D.T.E. Questions Based Upon Terry Landers' Direct Testimony

**DATED:** August 22, 2000

**ITEM:** D.T.E. 2 See p. 10, lines 7-8: (a) Clarify whether the information provided by the LQD is inaccurate or the specific loops that DBC has queried do not exist in the LQD. (b) Explain what DBC means by "the error rate for the LQD is extremely high" and provide supporting documents. (c) Explain what DBC means by "unable to pre-qualify" and provide supporting documents that show DBC could not pre-qualify one-third of loops through the LQD.

**REPLY:** (a) Both - - the loop qualification database ("LQD") is inaccurate *and* specific loops that Digital Broadband seeks to qualify do not exist in the LQD.

(b) The LQD often provides useless and erroneous responses through the graphical user interface ("GUI"). Specifically, of \*\* LDQ queries using the GUI between early January and mid-May, 2000, Digital Broadband received \*\* responses (44%) that contained error messages or undecipherable information.

(c) Digital Broadband submits a request for manual loop pre-qualification (i) when the LQD fails to indicate whether or not a loop is qualified, or (ii) when the LQD indicates that a loop cannot be pre-qualified but Digital Broadband is aware of information that indicates that the loop can be qualified (e.g., Digital Broadband already is providing service nearby). Out of \*\* LQD queries leading to orders placed from January through July 2000, Digital Broadband had to request manual loop qualification \*\* times (37%). Out of those \*\* instances, Digital Broadband subsequently has been able to deploy service on \*\* loops (42%).



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July 10, 2000

Mary Cottrell  
Secretary  
Massachusetts Department of Telecommunications and Energy  
One South Station, 2nd Floor  
Boston, MA 02110

Re: D.T.E. 98-57 Phase III

Dear Secretary Cottrell:

Enclosed for filing in the above-captioned proceeding is the Direct Testimony of Terry Landers, filed on behalf of Digital Broadband Communications, Inc.

Thank you for your attention in this matter.

Sincerely,



E. Ashton Johnston  
Vincent M. Paladini

Attorneys for Digital Broadband  
Communications, Inc.

VMP/mwm  
Enclosures

cc: Cathy Carpino, Esquire, Hearing Officer (2)  
Michael Isenberg, Director, Telecommunications Division  
Service List

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Investigation by the Department on its own motion as to  
the propriety of the rates and charges set forth in the  
following tariffs: M.D.T.E. Nos. 14 and 17, filed with the  
Department on August 27, to become effective  
September 27, 1999, by New England Telephone and  
Telegraph Company d/b/a Bell Atlantic-Massachusetts.

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D.T.E. 98-57-Phase III

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**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

D.T.E. 98-57, Phase III

**DIRECT TESTIMONY OF**  
**DIGITAL BROADBAND COMMUNICATIONS, INC.**

1           **Q.     Please state your name, company, title, and job responsibilities.**

2           **A.**My name is Terry Landers. I am the Vice President - Network Services  
3 for Digital Broadband Communications, Inc. (“Digital Broadband”), a competitive local  
4 exchange carrier (“CLEC”) with headquarters at 200 West Street, Waltham,  
5 Massachusetts. Digital Broadband is a data and telecommunications carrier that provides  
6 high-speed data and telecom services, including broadband data transport, local and long  
7 distance telecommunications, Internet, and other value-added, integrated applications.  
8 Digital Broadband is dedicated to doing things differently: better, faster, and less  
9 expensively. Digital Broadband’s network buildout began in Massachusetts, where our  
10 network continues to expand. We are growing quickly, and our network has expanded  
11 into other states in New England and is expanding into markets along the East Coast and  
12 in the Midwest. Our mission is to be the premier broadband communications provider to  
13 help businesses and their employees work and communicate better and more effectively.

14           I am responsible for managing the deployment of Digital Broadband’s network  
15 and communications services, which include transmission technologies such as Digital  
16 Subscriber Line (xDSL) and, when available, line sharing. I have over 20 years of  
17 experience working with local telecommunications transmission facilities and operations  
18 support systems (“OSS”). My specific areas of expertise include OSS and OSS databases  
19 as well as network capacity planning and deployment.

20           **Q:     What is the purpose of your testimony?**

21           **A.**The purpose of my testimony is to assist the Department of  
22 Telecommunications and Energy (“D.T.E.”) in its review of Proposed D.T.E. Tariff 17,  
23 Phase III (the “Proposed Tariff”), in which New England Telephone and Telegraph

1 Company d/b/a Bell Atlantic (“BA-MA”) proposes rates, terms, and conditions for  
2 Digital Subscriber Line service and line sharing. Digital Broadband hopes that this  
3 testimony will be useful to the D.T.E. as it decides whether BA-MA’s Proposed Tariff  
4 will serve the public’s interest in creating a competitive telecommunications market in  
5 Massachusetts. My testimony addresses issues that are currently most significant to  
6 Digital Broadband, and the fact that I do not discuss other issues raised by the Proposed  
7 Tariff or BA-MA’s Testimony does not mean Digital Broadband agrees with BA-MA on  
8 those issues.

9 My testimony focuses on the following key issues: (1) whether BA-MA is  
10 making access to the unbundled high frequency portion of the local loop available for the  
11 purpose of line sharing; (2) whether BA-MA’s proposed collocation augments for line  
12 sharing (which BA-MA has already imposed on Digital Broadband) are justified and  
13 reasonable; (3) whether BA-MA is providing non-discriminatory access to its operations  
14 support systems (“OSS”) for purposes of line sharing; (4) whether BA-MA has justified  
15 its proposed rates and charges for xDSL and line sharing; (5) whether BA-MA’s  
16 proposed line sharing provisioning intervals are justified; (6) whether BA-MA is  
17 appropriately charging for loop conditioning; and (7) whether BA-MA should be  
18 permitted to terminate a CLEC’s service based on BA-MA’s own assertion that its voice  
19 service is “significantly degraded”.

20 **Q. Is BA-MA making access to the unbundled high frequency portion of**  
21 **the local loop available for the purpose of line sharing?**

22 **A.** BA-MA states that unbundled xDSL qualified links, Digital Designed  
23 Links, and line sharing are “currently available to CLECs in Massachusetts under

1 negotiated agreements.”<sup>1</sup> Digital Broadband does not believe that BA-MA’s comments  
2 are entirely accurate in that they present a limited and self-serving picture of the status of  
3 line sharing opportunities in Massachusetts. At the time BA-MA filed its testimony, BA-  
4 MA would only agree to make line sharing available if a CLEC essentially agreed to BA-  
5 MA’s rates, terms and conditions (including filing collocation augment applications,  
6 substantial application and installation fees, and a 76-business day collocation augment  
7 interval), and no alternative line sharing terms and conditions were available for adoption  
8 by other CLECs. As a result, Digital Broadband, presumably like other CLECs, to date  
9 has had no meaningful opportunity to implement line sharing.

10 Digital Broadband is aware that BA-MA entered into an agreement for line  
11 sharing with Covad which was “effective” as of May 26, 2000, but which was not  
12 submitted to the D.T.E. until July 5, 2000. It is not clear whether BA-MA made line  
13 sharing available to Covad in the interim or why there was such a delay in filing the  
14 agreement with the D.T.E. Based solely on BA-MA’s testimony, it appears that BA-MA  
15 and Rhythms also have a line sharing agreement which has not been filed with the D.T.E.

16 BA-MA claims that “the fact that Covad (and Rhythms Link, as well) has agreed  
17 to these issues [that is, the Proposed Tariff terms], even on an interim basis, demonstrates

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<sup>1</sup> Testimony of Amy Stern, at p. 5. BA defines “Line Sharing” as “nondiscriminatory access to the high frequency portion of an existing copper loop [on which] the telephone company provides . . . analog circuit-switched voice-grade services.” BA-MA defines the high frequency portion of the loop as the frequency range above the voice band on a copper facility that is being used to carry analog circuit-switched voice band transmissions. *See* Proposed D.T.E. MA Tariff No. 17, Part B, Section 19.1.1.

1 that these terms are suitable and would not interfere with Covad's business operations."<sup>2</sup>  
2 Digital Broadband does not believe that the mere existence of these agreements in any  
3 way demonstrates that their terms are fair or reasonable, particularly given the powerful  
4 incentive CLECs have to begin implementing line sharing as quickly as possible even if  
5 on terms far less than fair. As BA-MA knows, the agreements BA-MA refers to are  
6 interim and subject to change based on the outcome of this proceeding. BA-MA's  
7 agreement with Covad does not demonstrate that the Proposed Tariff is reasonable.

8 Digital Broadband notes that while BA-MA has created obstacles to delay line  
9 sharing by CLECs, since January of this year BA-MA has deployed its own "Infospeed"  
10 ADSL product in Massachusetts using line sharing technology. BA-MA is line sharing  
11 with itself while taking numerous actions to avoid line sharing with CLECs such as  
12 Digital Broadband.<sup>3</sup>

13 Access to line sharing is not the only difficulty Digital Broadband has  
14 encountered with BA-MA. Digital Broadband constantly encounters problems obtaining,  
15 and retaining, supposedly pre-qualified loops from BA-MA. Resolving these problems  
16 places a huge, unnecessary burden on Digital Broadband's workforce, draining resources  
17 it otherwise would dedicate to customer sales and service. Roughly 25% of the "pre-  
18 qualified" loops that Digital Broadband orders from BA-MA are not fit for use, further

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<sup>2</sup> Testimony of Amy Stern, at pp. 15-16. The outstanding issues, according to BA-MA, are "intervals for lines, intervals for future collocation augments, prices, test access, and splitter ownership" (*id.*) – in other words, all of the key issues relating to line sharing between BA-MA and a CLEC.

1 interfering with the deployment of service as planned. For instance, in many cases BA-  
2 MA responds to pre-qualified loop orders by saying that loop facilities are not available.  
3 BA-MA gives a number of purported reasons for this, including the presence of a T1 on  
4 the binder group, engineering problems, and a shortage of available facilities. If we  
5 pursue the matter, loop facilities occasionally become available, without explanation.  
6 Even after BA-MA accepts a loop order, BA-MA routinely delays giving a firm order  
7 commitment (“FOC”) date for loop delivery, fails to actually provide the loop on the  
8 FOC date, and reschedules FOC dates without prior notice. Again, the result is delay and  
9 increased costs for Digital Broadband.<sup>4</sup>

10 **Q. Are BA-MA’s proposed collocation augments for line sharing justified**  
11 **and reasonable?**

12 **A.** Mr. Meacham of BA-MA states that CLECs utilizing “Option A”  
13 arrangements, in which the CLEC owns and installs a splitter within its collocation space,  
14 will not need to change their existing collocation arrangements.<sup>5</sup> BA-MA’s Ms. Stern,  
15 however, adds that “[s]tandard collocation augmentation procedures and charges would

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*(footnote continued from previous page)*

<sup>3</sup> BA-MA typically provides broadband to its residential and small business customers by deploying ADSL as a separate service that shares the loop with the customer’s POTS service. See BA-MA response to Item RL/CVD 1-81, filed June 5, 2000.

<sup>4</sup> Digital Broadband’s difficulties do not end when it finally takes delivery of a working loop. Periodically, without warning or notice, BA-MA repossesses a Digital Broadband loop in order to accommodate a BA-MA customer. Regardless of whether this is inadvertent or intentional, when this happens it generally causes our customer to lose service for an average of 24 hours, often longer, while we attempt to engage BA-MA to work with us to solve the problem.

<sup>5</sup> Testimony of Bruce F. Meacham, at p. 53; see also Proposed D.T.E. Tariff No. 17, Part E, Section 2.5.1 at p. 23.

1    apply . . . should a CLEC have a need or desire to . . . add more tie cables and  
2    terminations.”<sup>6</sup> Digital Broadband’s recent experience contradicts BA-MA’s statement  
3    that it will not require collocation changes for “Option A” and demonstrates how BA-  
4    MA’s use of the Proposed Tariff has delayed the availability of line sharing to Digital  
5    Broadband.

6            BA-MA told me that in order for Digital Broadband to implement line sharing, it  
7    must file collocation augment applications requesting two new cross connections for each  
8    line that Digital Broadband seeks to share. BA-MA also told me that a 76-business day  
9    provisioning interval would apply. BA-MA never provided an estimate of the augment  
10   costs, stating that the cost would depend on the geographic location of the central office.  
11   (BA-MA did say that a \$3500 fee would apply for augments to CCOE arrangements,  
12   however, of which Digital Broadband has only a few.)

13           Because Digital Broadband plans to use Option A line sharing arrangements and  
14   already possesses enough cross connections for its initial line sharing rollout, it should  
15   not be required to undertake augment procedures. Our line sharing equipment will  
16   remain within our collocation space, and access to line sharing is simply a matter of  
17   connecting BA-MA’s loops to our equipment at the point of termination (“POT”) bay.  
18   The physical cross connect work involved is minimal and can be performed in a short  
19   amount of time using pre-existing facilities. Therefore, I do not believe that these  
20   augments are technically necessary. Also, although BA-MA seeks to justify the proposed

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<sup>6</sup> Testimony of Amy Stern, at p. 12.

1 interval on the basis that 76 business days is the “normal” interval for all collocation  
2 augments – implying that it is comparing apples to apples in terms of the work required  
3 to be performed<sup>7</sup> -- it does not provide enough information to determine whether this is a  
4 reasonable explanation.

5 It is not clear from the Proposed Tariff what augment charges apply to Option A  
6 arrangements, or even if augment charges should apply at all. The Proposed Tariff states  
7 that Augment-Rearrangement of Equipment charges for virtual collocation will apply  
8 when splitter arrangements are installed in existing physical collocation space.<sup>8</sup> BA-MA,  
9 however, provides no explanation as to why the Virtual Collocation Augment-  
10 Rearrangement charge should apply to the installation of line sharing equipment within  
11 Digital Broadband’s physical collocation space. Moreover, Digital Broadband is  
12 seriously concerned that even if BA-MA’s Proposed Tariff identifies the charge for line  
13 sharing augments (whether or not legitimate), BA-MA will not apply the charges  
14 according to the Proposed Tariff.<sup>9</sup>

15 Digital Broadband asked BA-MA employees on several occasions why BA-MA  
16 requires these applications and what augments are necessary. Based on what BA-MA has

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<sup>7</sup> Testimony of Amy Stern, at pp. 20-21.

<sup>8</sup> This Rate Element appears to be \$1,500 per Augment. See Proposed D.T.E. Tariff at Part B, Section 2.6.12, p. 26; Part M, Section 5.3.1, p.7.

<sup>9</sup> In an effort to maintain some forward movement towards line sharing deployment, Digital Broadband recently submitted approximately 90 applications for line sharing augments. BA-MA has not identified to Digital Broadband the specific charges that will apply to these applications, so we had to submit the applications without the charges and fees identified, and we do not know whether BA-MA’s Augment-

*(footnote continued to next page)*



1 said, the bulk of the work seems to be related to rearranging BA-MA's connections on its  
2 main distribution frame ("MDF"). Specifically, BA-MA stated that it intends to  
3 reorganize CLEC connections into paired 25-loop connection blocks, reserving two ports  
4 for every potential connection, one for voice, and one for combined voice and data. BA-  
5 MA stated that this plan would facilitate BA-MA's quick and easy disconnection of the  
6 CLEC's line sharing arrangement. Regardless of the legitimacy of BA-MA's desire to  
7 easily cut off Digital Broadband's line sharing access at will, which I discuss below in the  
8 context of BA-MA's proposal regarding "significant degradation" of voice service when  
9 line sharing, I believe Digital Broadband should not be burdened with subsidizing BA-  
10 MA's election to reorganize its MDF connections. Certainly, there is nothing about  
11 Option A line sharing arrangements that require BA-MA to reorganize its MDF. In  
12 addition, BA-MA's plan to reserve two ports for every line, regardless of whether or not  
13 it will be shared, will be inefficient and is likely to accelerate MDF space exhaustion.  
14 Once space on the MDF is exhausted, there would almost certainly be a substantial delay  
15 in new CLEC service deployment until MDF space is reclaimed or constructed.

16 BA-MA also stated that it intends to use shielded cabling for these new  
17 connections. Shielded cabling is more expensive than unshielded wiring, and is not  
18 technically justified for the entire length of cable from BA-MA's MDF to Digital  
19 Broadband's POT Bay. To the extent BA-MA uses shielded cabling on its side of our

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Rearrangement rate element in the Proposed Tariff is justified or even if it will apply to Digital Broadband's applications.

1 POT Bay, it exceeds applicable industry standards, and BA-MA should not be able to  
2 force Digital Broadband to pay for it.

3 BA-MA also has told me that in order to provide line sharing it would have had to  
4 create a new OSS process, that it had no plans to do so, and that instead Digital  
5 Broadband must request collocation augments. Based on BA-MA's statement that it has  
6 yet to implement new OSS procedures, it appears that MA did not comply with the  
7 FCC's deadline. BA-MA stated that it would allow Digital Broadband to reuse its  
8 existing cross connections. However, BA-MA continued to demand that Digital  
9 Broadband file augment applications asking BA-MA to re-cable, re-stencil, and re-  
10 inventory Digital Broadband's connections, and that Digital Broadband accept substantial  
11 charges and a 76-day interval, as in the Proposed Tariff, if it wants line sharing. The net  
12 effect of BA-MA's request is a substantial delay to Digital Broadband's efforts to obtain  
13 access to line sharing, and a cost to Digital Broadband of millions of dollars for  
14 application fees alone.

15 On the whole, it is very troubling that BA-MA, under the guise of making line  
16 sharing available, plans to rearrange its MDF, maximize its control over CLEC loop  
17 access, and fail to comply with the FCC's requirement that it complete OSS  
18 modifications for line sharing on or before June 6, 2000.

19 **Q. Is BA-MA providing non-discriminatory access to its operations**  
20 **support systems for purposes of line sharing?**

21 **A.** BA-MA requires CLECs to "pre-qualify" each loop, using "mechanized"  
22 and "manual" processes, before a CLEC may order a line sharing arrangement, even  
23 though line sharing is only available on the loops on which BA-MA already is providing

1 service.<sup>10</sup> Because of the inadequacy of BA-MA's access systems, this requirement  
2 creates a bottleneck and artificially increases CLECs' line sharing costs.

3 BA-MA's Graphical User Interface ("GUI") is the interface Digital Broadband  
4 and other CLECs are forced to use to access the Line Qualification Database ("LQD") to  
5 qualify loops for line sharing.<sup>11</sup> The GUI and LQD are not reliable and are inferior to  
6 other databases used by BA-MA.

7 The error rate for the LQD is extremely high. Digital Broadband has been unable  
8 to pre-qualify approximately one-third of all loops which it has queried to the LQD. This  
9 has forced Digital Broadband to request BA-MA to perform "manual" loop qualification  
10 at a cost of \$113.67 each. In virtually all cases involving line sharing, this second-stage  
11 loop qualification method, which BA-MA designates as "manual", actually only involves  
12 a BA-MA employee entering the query into the automated Loop Facilities Assignment  
13 and Control System ("LFACS") database that holds loop qualification data. The  
14 "substantial work effort" BA-MA describes apparently applies to those cases that require  
15 an engineer from its Facilities Management Center to check paper records, which is not  
16 routine because of LFACS.<sup>12</sup> Since, with respect to line sharing, BA-MA already is  
17 providing service on the loop that the CLEC seeks to access, it is extremely unlikely that  
18 BA-MA will have no electronic records, in LFACS or another automated system,

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<sup>10</sup> Testimony of Amy Stern, at p. 10. *See also* Proposed D.T.E. Tariff No. 17, Part B, Section 5.4.2, p. 9.

<sup>11</sup> Testimony of Amy Stern, at pp. 13-14.

<sup>12</sup> Testimony of Amy Stern, at p. 6; Testimony of Bruce F. Meacham, at pp. 18-20.

1   pertaining to that loop. BA-MA therefore should rarely, if ever, impose a “manual loop  
2   qualification” charge.

3           BA-MA states that it need not provide direct, real-time electronic access to its  
4   OSS for line sharing UNE orders, including loop qualification, pre-ordering, and ordering  
5   functions because “[t]he current access afforded to CLECs . . . is more than sufficient to  
6   allow them to provision line sharing in the coming months.”<sup>13</sup> In my opinion, this  
7   statement is not correct. In addition to the inadequacy of the information in the LQD, the  
8   one-by-one loop qualification required by the GUI cannot accommodate the large volume  
9   of loop qualifications that Digital Broadband is scaling up to accomplish. BA-MA’s own  
10   projections contemplate over 3.4 million ADSL subscribers in the Bell Atlantic  
11   footprint.<sup>14</sup> BA-MA cannot project such volumes, and, at the same time, assert that its  
12   competitors will have a “meaningful opportunity to compete” if their OSS interface is  
13   limited to one-by-one queries, especially if BA-MA has the ability to batch pre-qualify  
14   loops. This ability gives BA-MA a tremendous advantage that allows it to focus its  
15   marketing efforts on customers whose loops it has pre-qualified.

16           BA-MA should be required to provide immediately non-discriminatory, real-time  
17   electronic access to LFACS, as well as to the Trunk Integrated Records Keeping System  
18   (“TIRKS”) – the same OSS that BA-MA uses for its own and its affiliates’ provisioning

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<sup>13</sup> Testimony of Amy Stern, at p. 38.

<sup>14</sup> Testimony of Bruce F. Meacham, Exhibit 1, Workpaper p. 6.

activities. The lack of such access clearly is discriminatory and does not allow CLECs to achieve parity with the access that BA-MA and its affiliates enjoy.

**Q. Has BA-MA justified its proposed rates and charges for xDSL and line sharing?**

**A.** Certain of BA-MA's proposed rates and charges, if approved, would result in windfall profits to BA-MA, and are not justified.

1. Non-Recurring Charges

BA-MA seeks to impose a series of non-recurring charges on line sharing arrangements. I already have discussed the augment fee, which I do not believe BA-MA has justified. Another proposed non-recurring charge is the \$11.17 "central office wiring charge" for line sharing installations, which BA-MA proposes to double.<sup>15</sup> In my opinion, the cost of the additional piece of wire that BA-MA says it will install to bring the voiceband signal back from the CLEC POT bay to the MDF should be minimal.<sup>16</sup> BA-MA has not explained the basis for this charge. Rather than calculating an appropriate incremental charge for the additional wire used for line-sharing

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<sup>15</sup> See Testimony of Amy Stern, at p. 10 and Attachment 1, p. 3. Ms. Stern's Testimony, at p. 10, states that non-recurring charges for "Installation-CO Wiring and Installation Other" apply, but she does not provide further breakdown, so her statement appears to be inconsistent with the Attachment material she refers to, which simply states "central office wiring charge".

<sup>16</sup> It is my understanding that the FCC stated that "the costs of installing cross connects for xDSL services in general would be the same as for cross connecting loops to the [CLEC's] collocated facilities, particularly where the splitter is located within the [ILEC's] MDF," and that when the CLEC's splitter is located in its own collocation space, the cost difference arising from the different location of the splitter "would only be minimally higher than for cross connecting a splitter located within the MDF to the [CLEC's] xDSL equipment." *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 14 FCC Rcd 20912 (1999), at para. 145. A 200% increase in these costs is far from "minimally higher".

1 arrangements, BA-MA proposes to just double the charge and does not explain this crude  
2 calculation. BA-MA cannot be permitted to shortcut necessary cost calculations and risk  
3 overcharging CLECs for the potentially large number of line sharing loop connections.  
4 In this instance, as with recurring charges BA-MA seeks to impose, BA-MA promises  
5 “zero local loop cost,” but actually would reap inflated compensation by padding its non-  
6 recurring charges. BA-MA should either recalculate or provide support to show that  
7 these charges are truly supported by the actual cost of the facilities and installation.

8 BA-MA also seeks to impose a non-recurring charge of \$113.67 for “manual”  
9 loop qualification.<sup>17</sup> The first step in the “manual loop qualification” procedure, as BA-  
10 MA describes it,<sup>18</sup> is a check of the LFACS database. According to BA-MA, LFACS  
11 “inventories and assigns all loop facilities from the serving terminal to the main  
12 distribution frame in the central office.”<sup>19</sup> Of course, the LFACS inquiry is only needed  
13 because BA-MA refuses to provide CLECs with the ability to make the query directly. In  
14 addition, I understand that BA-MA regularly performs Mechanized Loop Testing  
15 (“MLT”) on all of its in-service loops. Therefore, I would expect that for line sharing  
16 loops BA-MA already has this information in LFACS, and performing MLT is redundant

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<sup>17</sup> See Proposed D.T.E. Tariff at Part B, Section 5.4.7.C.1, at p.11; *see also* Testimony of Amy Stern, at p. 7, Attachment 1, p. 4.

<sup>18</sup> Testimony of Bruce F. Meacham, at pp. 18-20.

<sup>19</sup> Mr. Meacham states that LFACS “may include” information regarding the presence of load coils, bridged taps, DLC facilities, and the length and gauge of copper cables. *Id.* BA-MA is more specific in its answer to RL/CVD 1-33, where it states that LFACS contains the following data on individual loops: cable length and gauge; FDI location and type; electronics, location and type; bridged taps, location, distance from

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1 for the purpose of manual loop qualification. Access to the same information available to  
2 BA-MA, in the same time and manner, would eliminate the need for “manual”  
3 qualification and the associated non-recurring charge.

4                   2.       Recurring Charges for Use of the Local Loop

5           BA-MA states that its Proposed Tariff does not include any recurring charge for  
6 use of the local loop, although BA-MA expressly reserves the right to implement such  
7 charges whenever it wishes to do so.<sup>20</sup> This gesture is all form and no substance because  
8 BA-MA merely replaces loop access charges with other recurring charges. For example,  
9 BA-MA has proposed, but not justified, requiring CLECs to pay \$0.65 per month, per  
10 loop<sup>21</sup> to support the LQD. This database is fully redundant with a database that BA-MA  
11 already uses and funds from the access charges it receives for the shared loop. BA-MA  
12 also has proposed a recurring charge of \$1.90 for access to Wideband Testing,<sup>22</sup> which is  
13 something that Digital Broadband does not need or want because Digital Broadband  
14 already has deployed Turnstone equipment that performs this function. These monthly  
15 recurring charges are merely the means by which BA-MA can impose “virtual” line  
16 access charges without having to disturb its voice loop access charge models. BA-MA  
17 should not be permitted to impose these charges on CLECs that do not need or want the

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central office, and design; spare pair availability; cable and pair identification and other information; and the presence and type of DLC plant information.

<sup>20</sup> Testimony of Amy Stern, at p. 10, n.7; *see also* Proposed D.T.E. Tariff No. 17, Part M, Section 2.19.1, p. 31.

<sup>21</sup> Testimony of Amy Stern at Attachment 1, p. 3.

1 services upon which they are based. Because BA-MA fully recovers its loop-related  
2 costs through local access charges relating to the provision of voice services, additional  
3 recovery for line sharing constitutes over-recovery of loop access charges.

4 Although BA-MA asserts that the LQD is a “new” database,<sup>23</sup> it is not. The LQD  
5 contains a subset of the information that already exists in LFACS. Particularly with  
6 respect to line sharing, there is no reason to impose a per-line monthly recurring LQD  
7 charge, as BA-MA proposes. BA-MA already is providing service on the loop in  
8 question, and is collecting access charges that fully fund the costs associated with  
9 providing the loop, including the cost of maintaining LFACS. BA-MA also has not  
10 justified a recurring charge because the data is of no further use to the CLEC once the  
11 loop has been qualified for line sharing.

12 **Q. Are BA-MA’s proposed line sharing provisioning intervals justified?**

13 **A.** BA-MA proposes that a “standard” six business day interval should apply  
14 to the provisioning of line sharing arrangements on a particular loop, stating that the  
15 FCC’s *Line Sharing Order* entitles CLECs only to the ILEC’s “standard DSL  
16 provisioning interval (six business days).”<sup>24</sup> It is my understanding that the FCC has  
17 stated that “states are free, and indeed, are encouraged to adopt more accurate

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<sup>22</sup> Proposed D.T.E. Tariff No. 17, Part M., Section 2.19.1, p. 31; Testimony of Amy Stern, at p. 55.

<sup>23</sup> Testimony of Bruce F. Meacham, at pp. 14-15.

<sup>24</sup> Testimony of Amy Stern, at p. 16.



1 provisioning standards for the high frequency portion of the loop.”<sup>25</sup> The D.T.E. has  
2 authority to establish a different interval, and there is sufficient evidence showing that a  
3 shorter interval is feasible. Therefore, BA-MA is not justified in claiming an  
4 “entitlement” to six-day provisioning intervals. Digital Broadband agrees with Covad  
5 that BA-MA should be required to provide access to line sharing in accordance with the  
6 timeframes suggested by Covad – until September 7, 2000, three business days for loops  
7 that do not require conditioning and five business days for loops that require  
8 conditioning; between September 7, 2000 and December 7, 2000, two days for loops that  
9 do not require conditioning, and after December 7, 2000, within 24 hours for loops that  
10 do not require conditioning.<sup>26</sup>

11 **Q. Are the loop provisioning charges applied appropriately and**  
12 **consistently?**

13 **A.** Digital Broadband cannot easily answer this question because it is  
14 virtually impossible to identify what loop provisioning activities BA-MA’s bills apply to.  
15 Although BA-MA is obligated to provide Digital Broadband an itemized statement of  
16 charges, BA-MA provides an aggregate bill for each central office, and with no useful  
17 detail. In fact, Digital Broadband has significant difficulty ascertaining specific itemized

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<sup>25</sup> *Line Sharing Order*, at paras. 174-175.

<sup>26</sup> *See Covad Petition for Arbitration to the D.T.E.*, at p. 14.

1 charges, let alone the justification for those charges.<sup>27</sup> Consequently, Digital Broadband  
2 has no way to verify the activities for which BA-MA charges.

3 In general, however, loop conditioning charges should be based on the length of  
4 the *finished* loop length. BA-MA states that it will not charge CLECs for removing  
5 loading coils and bridged taps from loops up to 18,000 feet long.<sup>28</sup> We agree with this  
6 approach, provided that loop length is determined *after* the removal of the bridged taps.  
7 Otherwise, CLECs would be subject to substantial and unpredictable loop conditioning  
8 charges for loops that, according to BA-MA's own loop design criteria,<sup>29</sup> should not need  
9 to be conditioned.

10 **Q. Should BA-MA be permitted to terminate a CLEC's service based on**  
11 **BA-MA own assertion that its voice service is "significantly degraded"?**

12 **A.** BA-MA states that it will "amend the [Proposed Tariff] so that BA-MA  
13 will only take action [to eliminate interference on a shared line] when the voice service  
14 [provided by BA-MA] is *significantly degraded*, as brought about by a complaint from

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<sup>27</sup> A glaring and disturbing example of BA-MA's billing practices involves recent bills Digital Broadband received relating to certain central offices in the Boston metropolitan area. First, the bills reflect recurring charges as to these COs that BA-MA had not billed to Digital Broadband for a one year period. Second, the bills reflect power feed charges of over \$1 million, with the power charges for one CO apparently over \$200,000. Apart from the unfairness of waiting one year to send these bills (and the impact of that on our business), Digital Broadband also believes that these bills include grossly improper and excessive overcharges for power never used and in some cases never even provisioned. Because the bills contain little information or breakdown regarding these charges, Digital Broadband is unable to assess their propriety, fairness or accuracy.

<sup>28</sup> Testimony of Bruce F. Meacham, at pp. 35, 38.

<sup>29</sup> *Id.*

1 the end user customer.”<sup>30</sup> FCC rule 51.230(b) states that an ILEC may not deny a request  
2 to deploy line sharing technology unless the ILEC demonstrates to a state commission  
3 that deployment will “significantly degrade the performance of” the ILEC’s voice service  
4 or other advanced services. The rule makes no distinction between initial deployment  
5 and continued deployment of the same equipment.

6 Digital Broadband also has serious practical concerns about the language in BA-  
7 MA’s Proposed Tariff, which would, if approved, make BA-MA the self-appointed  
8 decision-maker as to whether or not voice service is “significantly degraded”. To allow it  
9 to do so would hold Digital Broadband and other CLECs hostage to BA-MA’s  
10 interpretation and create unacceptable risk and uncertainty. If BA-MA believes that its  
11 voice service is being “significantly degraded”, it must prove its case to the D.T.E.  
12 Because the law is clear, there is no need for the Proposed Tariff to include any language  
13 on this matter, which would only create confusion. I am also concerned that unless the  
14 D.T.E. remains engaged, it would be too easy for BA-MA to respond to any perception of  
15 line trouble by first disconnecting the CLEC’s line sharing service, then determining the  
16 source of the problem, needlessly interrupting the customer’s broadband service and  
17 undermining the relationship we are working so hard to achieve. Also, as I stated earlier  
18 in my testimony, it appears to me that BA-MA is requiring CLECs to agree to equipment  
19 arrangements for no other purpose than to allow BA-MA to more quickly disconnect data

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<sup>30</sup> Testimony of Amy Stern, at p. 55 (emphasis in original).

1 service on a shared line. This provides even greater evidence of the need for D.T.E.  
2 oversight.

3 Q. Does this conclude your testimony?

4 A. Yes.